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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,230	09/15/2003	Zachariah Journey Baum		2487

7590  
Aaron Wolf Baum  
960 Natoma Street #3  
San Francisco, CA 94103

06/25/2007

EXAMINER
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COLAN, GIOVANNA B

ART UNIT	PAPER NUMBER
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2162

MAIL DATE	DELIVERY MODE
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06/25/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/662,230

Applicant(s)

BAUM ET AL.

Examiner

Giovanna Colan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This action is issued in response to the Amendment/Petition filed on 01/16/2007.
2. No claims were amended. No claims were canceled. No claims were added.
3. This action is made Final.
4. Claims 1 –16 are pending in this application.
5. Applicant's arguments filed on 06/06/2006 have been fully considered but they are not persuasive.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

7. Claim 1 – 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Eyal et al. (US Patent App. Pub. No. 2004/0177096 A1, filed: January 24, 2000).

Regarding Claim 1, Eyal discloses a method for providing to a user media suggestions based on lists associating media segment references using one or more general purpose data processors (Page 5, [0062], lines 1 – 5, Eyal), comprising:

retrieving said lists (Page 4, [0036], lines 2 – 7, Eyal<sup>1</sup>) and parsing their media segment references into searchable records comprising text descriptors of corresponding media segments (Page 10 and 11, [0127] and [0137], lines 6 – 8 and 6 – 14; respectively, Eyal<sup>2</sup>),

storing said records into memory available to said processor in combination with any previously stored records (Fig. 6, item 470, Page 12, [0152], lines 4 – 6, Eyal),

receiving a user request comprising text descriptors and specification of an output text descriptor type (Page 11 and 14, [0145] and [0177], lines 1 – 3 and 4 – 6; respectively, Eyal),

searching said stored lists and retrieving lists comprising one or more records comprising one or more text descriptors matching said user input text descriptors (Page 11, [0145], lines 3 – 5, Eyal<sup>3</sup>),

compiling a list of unique text descriptors of the output type that are present in said retrieved lists (Page 11, [0145], lines 6 – 14, Eyal),

scoring each of said unique text descriptors of the output type according to the number of said retrieved lists it appears in (Page 14, [0178], lines 1 – 7, Eyal), and

providing to said user a list of top-scoring text descriptors of said unique text descriptors (Page 21, [0269], lines 4 – 8 and 14 – 16, Eyal<sup>4</sup>).

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<sup>1</sup> Examiner interprets: accessing the addresses, which contain play-lists, as retrieving lists.

<sup>2</sup> Eyal's disclosure teaches parsing media (Page 10, [0127], lines 6 – 8, Eyal). Eyal further discloses how the media information is stored according to searchable records (Page 11, [0137], lines 6 – 14, Eyal).

<sup>3</sup> Wherein user input text descriptor correspond to "nature sounds".

<sup>4</sup> Eyal's disclosure teaches methods for scoring text descriptors (related to media information) including rating them from best to worst (Page 21, [0269], lines 4 – 8, Eyal). Eyal further discloses that the rating information will be provided to other users (Page 21, [0260], lines 14 – 16, Eyal). This implies that "best to worst" scores will be displayed to users. Examiner interprets that "best to worst" scores implies that top scores and lowest scores will be displayed to users.

Regarding Claim 9, Eyal discloses a data processing system for providing to a user media suggestions based on lists associating media segment references (Page 5, [0062], lines 1 – 5, Eyal), comprising:

(a) a general purpose data processor of known type for processing data (Page 6, [0077], lines 5 – 7, Eyal);

(b) data storage means for storing data on a storage medium (Fig. 4, item 247, Page 8, [0104], lines 9 – 10, Eyal);

(c) means for retrieving said lists associating media segments (Page 4, [0036], lines 2 – 7, Eyal<sup>5</sup>) and parsing them into searchable records comprising text descriptors of corresponding media segments and storing said records into said data storage with any previously stored records (Page 10 and 11, [0127] and [0137], lines 6 – 8 and 6 – 14; respectively, Eyal<sup>6</sup>);

(d) means for receiving a user request comprising text descriptors and specification of an output text descriptor type (Page 11 and 14, [0145] and [0177], lines 1 – 3 and 4 – 6; respectively, Eyal);

(e) means for searching said stored lists and retrieving lists comprising one or more records comprising one or more text descriptors matching said user input text descriptors (Page 11, [0145], lines 3 – 5, Eyal<sup>7</sup>);

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<sup>5</sup> Examiner interprets: accessing the addresses, which contain play-lists, as retrieving lists.

<sup>6</sup> Eyal's disclosure teaches parsing media (Page 10, [0127], lines 6 – 8, Eyal). Eyal further discloses how the media information is stored according to searchable records (Page 11, [0137], lines 6 – 14, Eyal).

<sup>7</sup> Wherein user input text descriptor correspond to "nature sounds".

(f) means for compiling a list of unique text descriptors of the output type that are present in said retrieved lists (Page 11, [0145], lines 6 – 14, Eyal);

(g) means for scoring each of said unique text descriptors of the output type according to the number of said retrieved lists it appears in (Page 14, [0178], lines 1 – 7, Eyal);

(h) means for providing to said user a list of top-scoring text descriptors of said unique text descriptors (Page 21, [0269], lines 4 – 8 and 14 – 16, Eyal<sup>8</sup>).

Regarding Claim 2 and 10, Eyal discloses a data processing system wherein said lists associating media segment references are retrieved through a data network (Page 1, [0009], lines 7 – 8, Eyal).

Regarding Claim 3 and 11, Eyal discloses a data processing system wherein said lists associating media segment references are HTML pages retrieved through a TCP/IP network (Page 6 and 12, [0076] and [0156], lines 6 – 9 and 7 – 8, Eyal).

Regarding Claim 4 and 12, Eyal discloses a data processing system wherein said retrieval, parsing and storage of said lists associating media segment references is

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<sup>8</sup> Eyal's disclosure teaches methods for scoring text descriptors (related to media information) including rating them from best to worst (Page 21, [0269], lines 4 – 8, Eyal). Eyal further discloses that the rating information will be provided to other users (Page 21, [0260], lines 14 – 16, Eyal). This implies that "best to worst" scores will be displayed to users. Examiner interprets that "best to worst" scores implies that top scores and lowest scores will be displayed to users.

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automatically performed as new lists become available (Page 2, [0015], lines 14 – 19, Eyal).

Regarding Claim 5 and 13, Eyal discloses a data processing system wherein the locations of said lists associating media segment references is stored in a master list (Fig. 20, item 2075, Page 19, [0253], lines 1 – 5, Eyal).

Regarding Claim 6 and 14, Eyal discloses a data processing system wherein the scores of said unique text descriptors of the output type is modified by adding the number of unique locations of said master list on which said unique text descriptor has been found, multiplied by a weighting factor (Page 17, [0217], lines 5 – 11, Eyal<sup>9</sup>).

Regarding Claim 7 and 15, Eyal discloses a data processing system wherein said user requests are the descriptors of media segments just purchased or served to a user, sent automatically as a consequence of said purchasing or serving (Fig.11, items 982 and 984, Eyal).

Regarding Claim 8 and 16, Eyal discloses a data processing system wherein media segments corresponding to said top-scoring text descriptors are automatically made available to a user (Page 21, [0269], lines 4 – 16, Eyal<sup>10</sup>).

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<sup>9</sup> Wherein rating corresponds to weight claimed.

<sup>10</sup> According to Eyal's disclosure, the rating information will be displayed to the user (Page 21, [0269], lines 14 – 16, Eyal). Examiner interprets that this rating information will include top-scoring information also. In addition, Examiner interprets this procedure to be automatically, not only because manual

### ***Response to Arguments***

1. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "advantage of lists associating media **references with each other**", "**to find media** related to **search criteria**", "compiling a database of lists...", "...**information implicit** in associating lists..", "...**the ability to find** related media..." ) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

USPTO personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim should not be read into the claim. *E-Pass Techs., Inc. v. 3Com Corp.*, 343 F.3d 1364, 1369, 67 USPQ2d 1947, 1950 (Fed. Cir. 2003) (claims must be interpreted "in view of the specification" without importing limitations from the specification into the claims unnecessarily). *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). See also *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989) ("During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that

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intervention is not necessarily involved, but also because Eyal's teachings disclose automatic methods



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during patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process.”).

***Conclusion***

1. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

***Prior Art Made Of Record***

1. Eyal et al. (US Patent App. Pub. No. 2004/0177096 A1, filed: January 24, 2000) discloses a streaming media search system.
2. Rapaport et al. (US Patent No. 5,890,152) discloses a personal feedback browser for obtaining media files.
3. Bolle et al. (US Patent No. 6,675,174 B1) discloses a system and method for measuring similarity between a set of known temporal media segments and a one or more temporal media streams.
4. Bolle et al. (US Patent App. Pub. No. 2003/0033347 A1) discloses a method and apparatus for inducing classifiers for multimedia based on unified representation of features reflecting disparate modalities.

***Points Of Contact***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Giovanna Colan whose telephone number is (571) 272-2752. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Giovanna Colan  
Examiner  
Art Unit 2162  
June 18, 2007



SANA AL HASHEMI  
PRIMARY EXAMINER